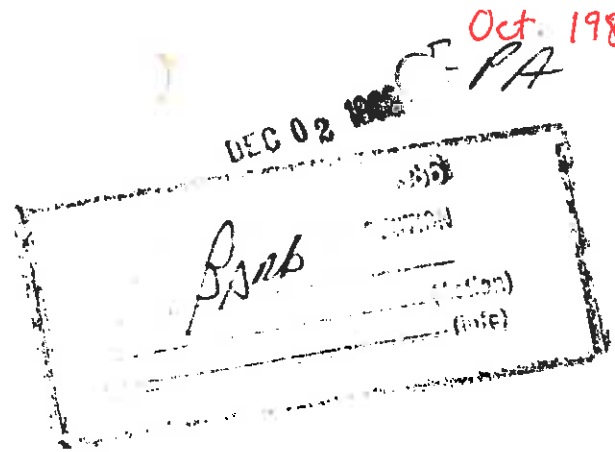


BEFORE THE DEPARTMENT OF HEALTH  
DIVISION OF ADMINISTRATION

STATE OF COLORADO

Case No. 85-11



PETITION FOR IMPOSITION FOR CIVIL PENALTY

IN THE MATTER OF THE ADJUDICATORY HEARING ON THE  
OCTOBER 18, 1985 NOTICE OF VIOLATION AND CEASE  
AND DESIST ORDER ISSUED TO AMAX INC., CLIMAX  
MOLYBDENUM COMPANY PERMIT NO. CO-0000248

TO: Gary G. Broetzman  
Acting Designee of the Executive Director  
of the Colorado Department of Health

This Petition for Imposition of Civil Penalty ("petition") is addressed to you, pursuant to section 25-8-608(2), C.R.S. (1982), in your capacity as acting designee of the Executive Director of the Colorado Department of Health. You are authorized thereby to determine civil penalties upon application of the Division of Administration of the Colorado Department of Health. Authority to apply for imposition of a civil penalty in this matter has been delegated to me by the Executive Director of the Department.

1. Climax Molybdenum Company ("Climax") owns and operates a molybdenum mine and mill ("the facility") located at Climax, in Summit and Lake Counties, State of Colorado. Climax is owned by AMAX Inc.

2. In conjunction with the facility, Climax operates a wastewater treatment system ("the treatment system") which is a system that manages water from several different sources. Discharge from the treatment system is authorized under the terms and conditions of Colorado Discharge Permit System permit No. CO-0000248 ("the permit").

3. The permit specifies effluent limitations which are to be met at all times except for the time when a snowmelt bypass is occurring, whereby other limits apply. The period for snowmelt bypass, specified in the permit, is any contiguous 60 days beginning not earlier than May 1 and ending not later than July 31.

4. By correspondence dated February 21, 1985 from Climax, the Water Quality Control Division ("the division") was informed that Climax planned to begin what Climax characterized as an emergency non-snowmelt bypass on March 4, 1985. Climax contended that part II, A.2(4) of the permit provided authorization for the non-snowmelt bypass. Said discharge was initiated on March 4, 1985 and continued through June 2, 1985. The Division did not approve the non-snowmelt bypass at any time.

5. On October 18, 1985, the Division issued a Notice of Violation ("Notice") and Cease and Desist Order ("Order") to Climax for violating its permit. The Notice and Order are attached hereto as Exhibit A, and incorporated herein by reference.

6. On November 15, 1985, Climax filed an Answer and a Request for Hearing on the October 18, 1985 Notice and Order. For its answer, Climax denied that it had violated its permit. Its answer and request for hearing are attached hereto as Exhibit B and incorporated herein by reference.

7. On October 8, 1986 the Division and Climax entered into an Agreement, Stipulation, and Order ("Agreement" and "Order"), pursuant to which the parties agreed that the Division would petition for the imposition of a \$30,000 civil penalty ("Penalty") against Climax for the October 18, 1985 Notice and Order. A copy of the Agreement and Order is attached hereto as Exhibit C and incorporated herein by reference.

8. In addition, the Division requests that you suspend the entire penalty pursuant to the terms specified in paragraph 17 of the Agreement and Order.

9. Pursuant to the terms of the Agreement and Order Climax agreed to withdraw its request for hearing and the Division agreed that the Agreement and Order resolved the Notice and Order issued on October 18, 1985, and that no further enforcement action will be taken thereon except as provided for in paragraph 17 of the Agreement and Order.

10. Climax further agreed, in connection with the Notice and Order, to do the work as described in paragraph 13 of the

Agreement and Order, and each of its subparagraphs.

11. Climax estimates that it may expend as much as \$1.6 million in connection with work and construction associated with complying with paragraph 13 of the Agreement and Order.

12. Pursuant to the terms of the agreement, Climax agreed to do additional work as specified in paragraph 16 of the Agreement and Order, and each of its subparagraphs, which work is unrelated to matters included in the Notice and Order and is in consideration of the civil penalty.

13. Climax estimates cost involved in complying with paragraph 16 of the Agreement and Order are \$229,600.

#### PENALTY RECOMMENDATION

On the basis of the foregoing, the Division recommends that you now impose a civil penalty of \$30,000 against AMAX Inc., which amount shall be suspended based upon the conditions set forth in paragraph 8 of this Petition.

DATED this 14<sup>th</sup> day of October, 1986.

COLORADO DEPARTMENT OF HEALTH  
DIVISION OF ADMINISTRATION



RONALD G. SCHUYLER  
Acting Director  
Water Quality Control Division

AG Alpha No. HL WA HXQS  
AG File No. CNR8605316/1SC

BEFORE THE DEPARTMENT OF HEALTH

DIVISION OF ADMINISTRATION

STATE OF COLORADO

Case No. 85-11

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AGREEMENT, STIPULATION, AND ORDER  
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IN THE MATTER OF THE ADJUDICATORY HEARING ON THE OCTOBER 18, 1985,  
NOTICE OF VIOLATION AND CEASE AND DESIST ORDER ISSUED TO AMAX  
INC., CLIMAX MOLYBDENUM COMPANY PERMIT NO. CO-0000248.  
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Ronald G. Schuyler, Acting Director of and on behalf of the Water Quality Control Division of the Colorado Department of Health, and Ralph M. Barnett, Vice President in charge of Mines, AMAX, Inc. by and through Richard O. Austermann, counsel for AMAX, Climax, do hereby stipulate and agree as follows:

1. The Water Quality Control Division ("Division"), a section within the Division of Administration of the Colorado Department of Health ("the Department"), has primary responsibility pursuant to sections 25-8-301 to 308, C.R.S. (1982) to enforce the provisions of the Water Quality Control Act, sections 25-8-101 to 703, C.R.S. (1982 & 1985 Supp.).

2. Climax Molybdenum Company ("Climax") owns and operates a molybdenum mine and mill ("the facility") located at Climax, in Summit and Lake Counties, State of Colorado. Climax is owned by AMAX Inc.

3. In conjunction with the facility, Climax operates a wastewater treatment system ("the treatment system") which is a system that manages water from several different sources.

4. ~~The wastewater treatment system ultimately discharges to the East Fork of Tenmile Creek ("the Creek") and such discharge is authorized under the terms and conditions of Colorado Discharge Permit System permit number CO-0000248 ("the permit"), which was issued on December 23, 1983 and is scheduled to expire~~

on September 30, 1988.

5. The permit specifies effluent limitations which are to be met at all times except for the time period when a snowmelt bypass is occurring, whereby other limits apply. The snowmelt bypass is authorized under the permit and consists of direct discharge from the tailing pond to the creek, thus bypassing the plant. The time period for snowmelt bypass is specified in the permit as any contiguous 60 days beginning not earlier than May 1 and ending not later than July 31.

6. In correspondence dated February 21, 1985 from Climax, the Division was informed that Climax planned to begin what Climax characterized as an emergency non-snowmelt bypass on March 4, 1985. Climax contended that part II.A.2.c(4) of the permit provided authorization for the non-snowmelt bypass. Said discharge was initiated on March 4, 1985 and continued through June 2, 1985. The Division did not approve the non-snowmelt bypass at any time.

7. In the February 21, 1985 correspondence, Climax further stated that the treatment system contained a volume of water above average and attributed this to decreased consumptive water use as a result of reduced mill processing, introduction of the McNulty Creek drainage into the treatment system and an increased volume in underground mine water, as the result of above average precipitation.

8. On October 18, 1985, the Division issued a Notice of Violation ("Notice") and Cease and Desist Order ("Order") to Climax for violating its permit. The Notice and Order are attached hereto as exhibit A, and incorporated herein by reference.

9. The Division alleged that the information contained in paragraph 7 constituted a process modification, according to the permit and required that AMAX submit a new permit application unless the process modification would not result in effluent limitation violations. To date, Climax has not submitted a permit application for what the Division terms a process modification, as described in paragraph 7, and has denied that a process modification has occurred.

10. On November 15, 1985, Climax filed an answer and a request for a hearing on the Notice and Order. For its answer, Climax denied that it had violated its permit. Its answer and request for a hearing are attached as exhibit B and incorporated herein by reference.

11. In consideration of the mutual promises set forth in this Agreement, Stipulation, and Order, Climax agrees to withdraw its request for a hearing on the October 18, 1985 Notice and Order, and the Division agrees that this Agreement, Stipulation, and Order resolves the Notice and Order issued for the non-snowmelt bypass of spring, 1985, and that no further enforcement action will be taken thereon except as provided in paragraph 17 below.

12. By entering into this Agreement, Stipulation, and Order, Climax does not admit or deny any of the allegations contained in exhibit A.

13. In connection with the matters described in the Notice and Order, Climax agrees to do the work as described in this paragraph. To the extent this paragraph modifies the permit, this paragraph will supercede those permit conditions for the term of this Agreement, Stipulation, and Order. All other terms and conditions of the permit remain in full force and effect.

a. During the term of this Agreement, Stipulation, and Order, the Climax demonstration project, which was addressed in the Division's letters dated November 21, 1985, February 5, 1986 and March 12, 1986, remains in effect to the extent that this Agreement, Stipulation, and Order is not inconsistent herewith.

b. By October 1, 1987, Climax will complete modification of the treatment system. During the term of this agreement and order, Climax agrees to optimally manage the treatment system so as to minimize the need for "non-snowmelt bypass" which is addressed in Part II.A.2.c(4) of the permit. A part of the optimal management will be to maximize the volume of water released during the snowmelt bypass, consistent with mill operational requirements and permit management requirements, so as to minimize the possibility of a non-snowmelt bypass. Climax shall be entitled to reduce its discharge rate to 2,000 gpm upon learning that it has exceeded any effluent limitation set forth in paragraph 17 below. Special conditions for operations during the term of the Agreement, Stipulation, and Order are as follows:

1) When process water discharge flows at the No. 6 riser or other Division approved release points are less than or equal to 2,000 gpm and or when a snowmelt bypass occurs, Climax shall:

a) in addition to the permit's monitoring

requirements, perform monthly sampling and analysis of the process water discharge point, the East Fork of Tenmile Creek above the confluence with West Tenmile Creek ("Station 8"), Tenmile Creek below the confluence with West Tenmile Creek ("Station 8a") and Tenmile Creek at the Frisco Bridge ("Station 9"). At each location, analysis is to be for Total Recoverable ("T.R.") copper, T.R. cadmium, Total cyanide, sulfate, T.R. iron, T.R. manganese, T.R. zinc, T.S.S., pH, hardness, and alkalinity; and

b) report and submit the results of the above sampling and analysis with the regular DMRs to the Division.

2) Except during snowmelt bypass, initiation of flow above 2,000 gpm is subject to timely Division approval following submittal of all pertinent information.

a) If the Division approves flows greater than 2,000 gpm, weekly monitoring at locations and for parameters identified in 13(b)(1)(a) of this Agreement, Stipulation, and Order will be required.

b) Any exceedance of the total cyanide water quality standard at Station 9 shall require an immediate reduction in flow sufficient to result in water quality standard compliance. Duplicate samples for total cyanide shall be collected at Station 9 and analyzed sequentially. An exceedance for total cyanide occurs when both sample results are greater than the stream standard of 0.008 mg/l.

c) For any parameter other than total cyanide, two consecutive exceedances of any one parameter of the water quality standard at the Frisco Bridge station shall require an immediate reduction in flow sufficient to result in water quality standard compliance.

d) After any reduction of discharge rate pursuant to paragraph 13(b)(2)(b) or (c) above, Climax shall be entitled to again increase its discharge rate upon establishing to the satisfaction of the Division that the Climax discharge is no longer causing violations of water quality standards, and that existing data indicate that requested increases will not cause exceedances of in-stream water quality standards, as set forth above.

e) The Division shall be verbally advised by Climax within 48 hours of knowledge of any water quality standard exceedance at the Frisco Bridge station and in writing within five (5) working days.

f) Based on the magnitude and cause of any exceedance, as set forth above, the Division shall have authority to restrict the discharge flow rate, to the level of no less than 2,000 gpm.

g) Total cyanide analysis will be completed within 5 working days, but no later than 10 working days from the date of receipt in the lab.

h) Approximate flow reduction associated with water quality standard exceedance shall be determined based on a review of weekly monitoring data and conditions. If twice during the term of the agreement the water quality standards are found to remain in exceedance after flow reduction, future documented exceedances will require flow reduction to no greater than 2,000 gpm.

3) Modification of the treatment system shall be accomplished consistent with the following compliance schedule:

a) From March 1986 to October 31, 1986, Climax will conduct an engineering analysis of the following:

i) Improvement and relocation of a permanent settling pond to Tenmile Tailing Pond.

ii) Relocation to other suitable pond (Robinson Lake, No. 4 Dam).

iii) Selectively treating water (mill vs. mine).

iv) Retention of the demonstration project on the Mayflower tailing pond.

v) If the aforementioned options i) through iv), are inadequate, Climax will consider installing a clarifier at the mill.

b) From August 1, 1986 to December 31, 1986, Climax will conduct detailed engineering of the chosen modification.

c) From November 1, 1986 to December 31, 1986, Climax will obtain material quotations for implementing the chosen modification.

d) From December 1, 1986 to March 15, 1987,



Climax will purchase materials for the modification.

e) Climax will submit to the state its final engineering report on the modification no later than January 15, 1987.

f) Climax's demonstration project will end and the modification will be complete no later than October 1, 1987.

g) Quarterly update status reports will be submitted to the Division on a calendar basis no later than the 28th day of the month immediately following the quarter.

14. Climax estimates that it may expend as much as \$1.6 million in connection with work and construction associated with complying with paragraph 13.

15. The Division and Climax agree that a bypass will be considered an authorized non-snowmelt bypass during the term of this agreement, if all the conditions of paragraph 13 are satisfied, and all conditions of part II.A.2.c(4) of the permit are met.

16. In addition to the work agreed upon in paragraph 13, Climax agrees to do additional work, unrelated to the matters involved in the October 18, 1985 Notice and Order, but as part of this Agreement, Stipulation, and Order and in consideration of the civil penalty as described in paragraph 17:

a. By October 1, 1987, Climax will completely muck out the five Storke Ponds and then grade/reclaim the area consistent with Mined Land Reclamation permit number 77-493.

1) By September 1, 1986, a back up pump for the new Storke pump station shall be installed and operable.

2) At Climax's option, the farthest downstream Storke pond and pump house may be retained after mucking, as an emergency backup for the new Storke pumping station. Climax agrees that if an emergency does occur, the water collected in the pond will be pumped out within 24 hours, and that any solids will be mucked out within two weeks provided, however, that during the months of October through March, mucking may be delayed if weather or site conditions make the site inaccessible.

b. Within two weeks after the effective date of this agreement, Climax will submit a groundwater monitoring program consistent with the provision of the permit. Climax agrees that

one groundwater monitoring well will be located between the toe of the Mayflower tailing pond and the parshall flume and one well between the parshall flume and the property line. Provided that the Division approves Climax's proposed groundwater study program not later than October 15, 1986, provided that weather and site conditions permit, and provided that Climax is able to obtain all necessary permits in a timely fashion, Climax will complete installation of monitoring wells, and commence implementation of the study program, not later than November 15, 1986. Should weather and site conditions preclude well installation by November 15, 1986, installation will be completed by July 1, 1987. The Division agrees that it will not require installation of additional groundwater wells between the date of the stipulation and permit expiration, September 30, 1988, unless groundwater regulations are adopted which impose additional requirements. Within 14 days following the completion and/or installation of various items as listed in this paragraph 16, Climax agrees to submit written verification to the Division. Climax estimates costs involved in complying with paragraph 16 are: \$229,600.

17. The Division agrees to petition the department's executive director or his designee, pursuant to section 25-8-608, C.R.S. (1982) for a civil penalty of \$30,000 against Climax for the October 18, 1985 Notice and Order and will further request that the entire penalty be suspended on the condition that this Agreement, Stipulation, and Order is not violated and/or the significant noncompliance ("SNC") with the 30 day average limitations in the permit does not occur during the terms of this agreement. If conditions of the agreement are violated and/or SNC with the permit occurs during the term of this agreement, the Division may petition the executive director or his designee to impose the full amount of the suspended penalty. Prior to petitioning for imposition of the suspended penalty, the Division shall first serve written notice to Climax stating the provision of the permit and/or this agreement alleged to be violated and the facts supporting the violation. Following such notice, Climax shall have the right to a hearing on said violations if Climax petitions the Division for said hearing within 30 days of notice being served. If Climax fails to request said hearing within 30 days or if the hearing officer upholds the Division's findings in the notice that this agreement has been violated and/or the permit's 30 day average limitations are in SNC, then the Division may petition the executive director or his designee for imposition of the \$30,000 suspended penalty. Climax waives the right to contest the suspended penalty figure of \$30,000. The Division also has the right, following notice and hearing described above, to petition the executive director or his designee for civil penalties on any new permit violations established

by said notice. Climax has the right to appeal the amount of penalty relating to said new violations and may request a hearing before the Water Quality Control Commission within 30 days of the executive director or his designee imposing the penalty. For the purpose of this paragraph, "significant noncompliance" means two exceedances of any of the following limitations for any one parameter in a six-month period; provided, however, that significant noncompliance shall not be deemed to occur during non-snowmelt bypasses as provided in paragraph 15.

SNOWMELT BYPASS:

	30-day average in mg/l
total suspended solids	42
ammonia as N (un-ionized)	0.028
total cyanide	0.18
T.R. cadmium	0.017
T.R. copper	0.160
T.R. lead	0.022
T.R. iron	2.5
T.R. manganese	1.9
T.R. zinc	0.62

↑ Per Schuck  
w/ Schuck  
✓ limits only  
apply for  
collection of  
stipulated  
penalties

ALL SEASONS: (except Snowmelt bypass)

	30-day average in mg/l
total suspended solids	28
ammonia as N (un-ionized)	0.028
total cyanide	0.14
T.R. cadmium	0.014
T.R. copper	0.053
T.R. lead	0.005
T.R. zinc	0.20
T.R. iron	1.2
T.R. manganese	1.2

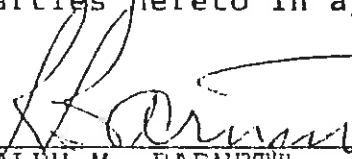
Except as set forth in paragraph 11 above, this paragraph in no way impairs or prohibits the Division from taking independent action for enforcing the terms and provisions of the permit, the Water Quality Control Act, 25-8-101 through 703, C.R.S. (1982 & 1985 Supp.) and regulations promulgated thereto. Thus, the

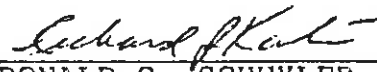
Division may petition the health department's executive director or his designee to impose the suspended civil penalty if Climax violates this Agreement, Stipulation, and Order, and may also take separate enforcement action.

18. This Agreement, Stipulation, and Order shall become effective upon the signing of the below listed parties and the health department's executive director or his designee imposing the civil penalty as described in paragraph 17.

19. This Agreement, Stipulation, and Order shall be effective for two years from the effective date, or until the date all requirements in paragraph 13 have been met and the Division so advised in writing by Climax and the requirements of paragraph 16 have been met and approved by the Division, whichever date is earlier.


20. The terms of this Agreement, Stipulation, and Order shall constitute the agreed order in this matter as above captioned, which order shall be enforceable by any or all of the parties hereto in appropriate legal proceedings.

  
RALPH M. BARNETT  
Vice President in Charge  
of Mines AMAX Inc.

  
RONALD G. SCHUYLER  
Acting Director  
Water Quality Control Division

DATE 10-3-86

DATE 10/8/86

  
RICHARD O. AUSTERMANN  
Senior Attorney, AMAX Inc.

DATE October 3, 1986

AG Alpha No. HL WQ HXQS  
AG File No. CNR8604853/BD